

ESTTA Tracking number: **ESTTA572316**

Filing date: **11/21/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Eric Olson XPI LLC
Granted to Date of previous extension	11/27/2013
Address	915 4th Ave. S Fargo, ND 58103 UNITED STATES
Party who filed Extension of time to oppose	Eric Olson
Relationship to party who filed Extension of time to oppose	Eric Olson is a member of XPI LLC

Attorney information	Annette P. Heller Heller & Associates 400 Chesterfield Center, Suite 400 Chesterfield, MO 63017 UNITED STATES tmattorneyheller@aol.com,tmattorneyturek@aol.com Phone:(314) 469-2610
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Applicant Information

Application No	85850401	Publication date	07/30/2013
Opposition Filing Date	11/21/2013	Opposition Period Ends	11/27/2013
Applicant	INTERNATIONAL MARKETING SYSTEMS, LTD 1320 5th Ave N Fargo, ND 58102 ND		

Goods/Services Affected by Opposition

Class 035. First Use: 2011/07/28 First Use In Commerce: 2011/07/28
All goods and services in the class are opposed, namely: On-line retail store services featuringrope, kermnantle rope, parachute rope, paracord, paracord bracelets, cordage, paracord hardware, paracord accesories and tools

Grounds for Opposition

Other	Application void ab initio
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Related Proceedings	XPI LLC v. International Marketing Systems, Ltd. (North Dakota District Court) (3:2013cv00069)
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Attachments	PARACORD PLANET Notice of Opposition.pdf(44873 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/aph72met/
Name	Annette P. Heller
Date	11/21/2013

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Eric Olson)	
XPI LLC (d/b/a Midwest Cord))	
Opposers,)	
)	
v.)	Opposition No. _____
)	
International Marketing Systems, Ltd.)	
Applicant.)	
_____)	

NOTICE OF OPPOSITION

Opposer Eric Olson is a United States citizen located and doing business at 915 4th Ave. S, Fargo, North Dakota 58103. Eric Olson is a member of XPI LLC (d/b/a Midwest Cord).

Opposer XPI LLC (d/b/a Midwest Cord) is a North Dakota limited liability company located and doing business at 915 4th Ave. S, Fargo, North Dakota 58103.

Opposer Eric Olson and Opposer XPI LLC shall hereinafter be jointly referred to as “Opposers.”

To the best of Opposers’ knowledge, International Marketing Systems, Ltd. (“Applicant”) is a North Dakota corporation with a mailing address of 1320 5th Ave. N, Fargo, North Dakota 58102.

Pursuant to 15 U.S.C. §1063, Opposers believe they will be damaged by the registration of Application Serial No. 85850401 and hereby oppose the same.

The grounds for opposition are as follows:

1. Opposers and Applicant do business through a contract with Amazon Services, LLC (d/b/a Amazon Marketplace).
2. Opposers and Applicant are direct business competitors.
3. Under the contracts with Amazon Services, Inc., Opposers and Applicant have both advertised and sold paracord to members of the general public through the Amazon.com website.
4. Opposers and Applicant have both advertised and sold paracord under a branded listings page titled “Paracord Planet.”
5. On February 14, 2013, Applicant filed a trademark application based on §1(a) seeking registration of the trademark PARACORD PLANET for “on-line retail store services featuring rope, kermnantle rope, parachute rope, paracord, paracord bracelets, cordage, paracord hardware, paracord accessories and tools.” Applicant’s application was assigned Serial No. 85850401.
6. Applicant is not the current owner of the PARACORD PLANET trademark, nor has Applicant ever been the owner of the PARACORD PLANET trademark.
7. Applicant was not the owner of all right, title, and interest in and to the PARACORD PLANET trademark in the United States at the time Applicant filed Application Serial No. 85850401.
8. Applicant’s application is void *ab initio* since Applicant was not the owner of the PARACORD PLANET trademark at the time Applicant filed Application Serial No. 85850401.

9. Opposers reasonably believe they will be damaged by the registration of Application Serial No. 85850401 because such registration would give color of exclusive statutory rights to Applicant in violation of the law.

WHEREFORE, Opposers will be damaged by the registration of trademark Application Serial No. 85850401 and pray that this Notice of Opposition be sustained.

Respectfully submitted,

ERIC OLSON
XPI LLC (d/b/a/ Midwest Cord)

By: /aph72/
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Dated: 11/21/2013

Attorney for Opposers
Eric Olson
XPI LLC (d/b/a Midwest Cord)

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing has been served by mailing said copy on 11/21/2013 via First-Class Mail, postage pre-paid, to:

International Marketing Systems, Ltd.
1320 5th Ave. N
Fargo, North Dakota 58102-4238

/aph72/
Annette P. Heller, Attorney for Opposers